UNITED STATES PATENT AND TRADEMARK OFFICE

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3626	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USpatents@armstrongteasdale.com

	Application No.	Applicant(s)
Office Action Summary	10/748,714	NICHOLS ET AL.
	Examiner	Art Unit	
	Eliza Squires	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _03 August 2009_.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-18, 21-34 and 37-40_ is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-18, 21-34 and 37-40_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
      Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
      Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set forth in

37 CFR 1.17(e), was filed in this application after final rejection. Since this application is

eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e)

has been timely paid, the finality of the previous Office action has been withdrawn pursuant to

37 CFR 1.114. Applicant's submission filed on 8/3/2009 has been entered.

Response to Arguments

Rejections under 35 USC 112 2nd

2.   The rejections are withdrawn in light of Applicant's amendment.

Rejections under 35 USC 102

3.   Applicants arguments are moot in view of new grounds of rejection. The examiner notes

that this action references a different patent by the same author *DeBusk*. The examiner will,

however, address Applicants arguments due to the similarities of the two references.

4.   **As to claim 1-5, 16-18, 21-24, 33-34, 37-40** Applicant argues that *DeBusk* does not

disclose "determining surgical procedures associated with a type of apparel". In the *DeBusk*

patent relied upon herein ('204) Figure 7 teaches, for example, procedure codes 20.79 and 40.40

are associated with TracePack 90-0083 also wherein drapes and dressings are apparel and may

be included in a TracePack see Figures 2 and 3. The reference therefore teaches the claimed

limitation.

5.   **As to claim 6-10, 25,** Applicant requests clarification on how a link (as that in *MSEC*) is

a "non-specific rule or principle that provides direction to action or behavior" as a guideline was

defined in the previous action. The link entitled "Disposable and Patient Gowns" in *MSEC*

provides direction to a user accessing a website, in that a user when selecting the link would

expect to find products fitting the description. "Disposable and Patient Gowns" is not a link to a

product listing in itself (a specific product) but rather a non-specific category listing. The

rejection is maintained.

6.   **As to claim 11-18, 29** Applicant argues that *MSEC* does not teach "executing program

code in the data processing system in order to determine customized items that are associated

with a type of apparel" specifically that "after having selected a color and size on page 2 of

MSEC, a user cannot then determine apparel products associated with the selected size and

color." It is improper to read a specific order of steps into method claims where, as a matter of

logic or grammar, the language of the method claims did not impose a specific order on the

performance of the method steps, and the specification did not directly or implicitly require a

particular order. Altiris Inc. v. Symantec Corp., 318 F.3d 1363, 1371, 65 USPQ2d 1865, 1869-70

(Fed. Cir. 2003). It is the position of the Examiner that if A is associated with B in a database, B

must also be associated with A. Therefore both determining customized items that are associated

with a type of apparel and determining apparel products associated with a customized item may

be taught by the same feature, in *MSEC* this is taught by the display of customized items

available (or associated) with a particular apparel item. The rejection is therefore maintained.

Claim Rejections - 35 USC § 102

7.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

8.   **Claims 1-5 and 37-38** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S.

Patent No. 6,581,204 to *DeBusk et al.*

9.   **As to claim 1,** *DeBusk* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

executing program code in a data processing system in order to determine surgical

procedures that are associated with a type of apparel (*DeBusk* Figure 7 wherein procedure codes

20.79 and 40.40 are associated with TracePack 90-0083 also wherein drapes and dressings are

apparel and may be included in a TracePack see Figures 2 and 3);

selecting one of the surgical procedures (*DeBusk* column 23 lines 13-67 and column 24

lines 24-37 "This screen 226 shows the part no. 228, a description 230, the scheduled amount

232, the issued amount 238 and the returned amount 240 for each individual supply item listed in

the bill of materials for the selected procedure."); and

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the selected surgical procedure (*DeBusk*

column 23 lines 13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a

description 230, the scheduled amount 232, the issued amount 238 and the returned amount 240

for each individual supply item listed in the bill of materials for the selected procedure" and

wherein drapes and dressings are apparel and may be included in a TracePack see Figures 2 and

3).

10.   **As to claim 2,** see the discussion of claim 1, additionally, *DeBusk* discloses the method

further comprising selecting one of the apparel products for purchase (*DeBusk* column 7 lines

20-50).

11.   **As to claim 3,** see the discussion of claim 1, additionally, *DeBusk* discloses the method

further comprising selecting one of the products to obtain information on the selected product

(*DeBusk* Figures 10 and 11).

12.   **As to claim 4,** see the discussion of claim 1, additionally, *DeBusk* discloses the method

further comprising:

        executing program code in the data processing system in order to determine guidelines

that are associated with the apparel products; and selecting one of the guidelines (*DeBusk*

column 14 lines 1-12 wherein a care event is a guideline); and

        executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected guideline (DeBusk column 14 lines 20-41).

13.   **As to claim 5,** see the discussion of claim 1, additionally, *DeBusk* discloses the method

further comprising:

        executing program code in the data processing system in order to determine customized

items that are associated with the apparel products (*DeBusk* column 24 lines 65-67 and column

25 lines 1-34 wherein a customized item is a product that may be added to a pack for a

procedure, thus the materials for the same procedure for different surgeons may be customized to the physicians preference see column 6 lines 6-65);

selecting one of the customized items (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34); and

executing program code in the data processing system in order to determine which of the apparel products are associated with the selected customized item (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34).

14.   **As to claim 37,** *DeBusk* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in a data processing system in order to determine types of surgical procedures, guidelines and customized items that are associated with a type of apparel l (*DeBusk* Figure 7 wherein procedure codes 20.79 and 40.40 are associated with TracePack 90-0083 also wherein drapes and dressings are apparel and may be included in a TracePack see Figures 2 and 3);

selecting a surgical procedure (*DeBusk* column 23 lines 13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual supply item listed in the bill of materials for the selected procedure.");

executing program code in the data processing system in order to determine apparel products of the type of apparel that are associated with the selected surgical procedure, guideline or customized item (*DeBusk* column 23 lines 13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the scheduled amount 232, the issued amount 238 and

the returned amount 240 for each individual supply item listed in the bill of materials for the

selected procedure" and wherein drapes and dressings are apparel and may be included in a

TracePack see Figures 2 and 3).

selecting a guideline that was not previously selected (*DeBusk* column 14 lines 1-12

wherein a care event is a guideline);

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the guideline (*DeBusk* column 14 lines 1-

12 wherein a care event is a guideline);

selecting a customized item (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34

wherein a customized item is a product that may be added to a pack for a procedure, thus the

materials for the same procedure for different surgeons may be customized to the physicians

preference see column 6 lines 6-65); and

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the customized item (*DeBusk* column 24

lines 65-67 and column 25 lines 1-34).

15.   **As to claim 38,** see the discussion of claim 37, additionally, *DeBusk* discloses the method

wherein the surgical procedure, the guideline and the customized item may be selected in any

order (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34).

16.   **Claims 6-8, 10-13, and 15** are rejected under 35 U.S.C. 102(a) as being anticipated by

Medical Supplies & Equipment Company website obtained via http://web.archive.org/ for the

date 9/26/2003 hereinafter referred to as *MSEC.*

17.   **As to claim 6,** *MSEC* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

        executing program code in a data processing system in order to determine guidelines that

are associated with a type of apparel; selecting one of the guidelines (*MSEC* page 1 wherein

"Disposable and Patient Gowns" is a guideline); and

        executing program code in the data processing system in order to determine apparel

products that are associated with the selected guideline (*MSEC* page 3).

18.   **As to claim 7,** see the discussion of claim 6, *MSEC* discloses the method further

comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

19.   **As to claim 8,** see the discussion of claim 6, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products to obtain information on the selected

apparel product (*MSEC* page 2).

20.   **As to claim 10,** see the discussion of claim 6, additionally, *MSEC* discloses the method

further comprising:

        executing program code in the data processing system in order to determine customized

items that are associated with the apparel products (*MSEC* pages 1-3);

        selecting one of the customized items (*MSEC* page 3); and

        executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected customized item (*MSEC* page 2).

21.   **As to claim 11,** *MSEC* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

executing program code in the data processing system in order to determine customized

items that are associated with a type of apparel (*MSEC* pages 1-3);

selecting one of the customized items (*MSEC* page 3); and

executing program code in the data processing system in order to determine apparel

products that are associated with the selected customized item (*MSEC* page 2).

22.   **As to claim 12,** see the discussion of claim 11, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

23.   **As to claim 13,** see the discussion of claim 11, additionally, *MSEC* discloses the method

further comprising selecting one of the apparel products to obtain information on the selected

apparel product (*MSEC* page 2).

24.   **As to claim 15,** see the discussion of claim 11, additionally, *MSEC* discloses the method

further comprising executing program code in a data processing system in order to determine

guidelines that are associated with a type of apparel; selecting one of the guidelines (*MSEC* page

1 wherein "Disposable and Patient Gowns" is a guideline); and

executing program code in the data processing system in order to determine apparel

products that are associated with the selected guideline (*MSEC* page 3).

Claim Rejections - 35 USC § 103

25.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

26.   **Claims 9, 14, and 16-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over

DeBusk in view of *MSEC.*

27.   **As to claim 9,** *MSEC* discloses the system substantially as claimed in claim 6 above;

however, *MSEC* does not explicitly teach that apparel products are associated with surgical

procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical

procedures that are associated with the apparel products; selecting one of the surgical procedures

(*DeBusk* Figure 7 wherein procedure codes 20.79 and 40.40 are associated with TracePack 90-

0083 also wherein drapes and dressings are apparel and may be included in a TracePack see

Figures 2 and 3); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected surgical procedure (*DeBusk* column 23 lines

13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the

scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual

supply item listed in the bill of materials for the selected procedure" and wherein drapes and

dressings are apparel and may be included in a TracePack see Figures 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* with the information about apparel in relation to surgical

procedures of *DeBusk* since the combination would improve the user's knowledge about the

particular product so that a more informed decision regarding purchase can be made.

28.   **As to claim 14,** *MSEC* discloses the system substantially as disclosed in claim 11 above;

however *MSEC* does not explicitly teach that apparel products are associated with surgical

procedures. *DeBusk* discloses the method further comprising:

executing program code in a data processing system in order to determine surgical

procedures that are associated with the apparel products; selecting one of the surgical procedures

(*DeBusk* Figure 7 wherein procedure codes 20.79 and 40.40 are associated with TracePack 90-

0083 also wherein drapes and dressings are apparel and may be included in a TracePack see

Figures 2 and 3); and

executing program code in the data processing system in order to determine which of the

apparel products are associated with the selected surgical procedure (*DeBusk* column 23 lines

13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the

scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual

supply item listed in the bill of materials for the selected procedure" and wherein drapes and

dressings are apparel and may be included in a TracePack see Figures 2 and 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* with the information about apparel in relation to surgical

procedures of *DeBusk* since the combination would improve the user's knowledge about the

particular product so that a more informed decision regarding purchase can be made.

29.   **As to claim 16,** *DeBusk* discloses a method of selecting apparel products for surgical

procedures, the method comprising:

entering a surgical procedure into a data processing system (*DeBusk* Figure 7 wherein

procedure codes 20.79 and 40.40 are associated with TracePack 90-0083 also wherein drapes

and dressings are apparel and may be included in a TracePack see Figures 2 and 3);

executing program code in the data processing system in order to determine apparel

products that are associated with the surgical procedure (*DeBusk* column 23 lines 13-67 and

column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the scheduled

amount 232, the issued amount 238 and the returned amount 240 for each individual supply item

listed in the bill of materials for the selected procedure" and wherein drapes and dressings are

apparel and may be included in a TracePack see Figures 2 and 3).and

However, *DeBusk* does not explicitly disclose displaying the apparel products to a user

and filtering the displayed apparel products. *MSEC* discloses:

displaying the apparel products to a user (*MSEC* pages 2-3); and

executing program code in the data processing system in order to filter the displayed

apparel products according to at least one of a guideline (*MSEC* page 1 wherein a user selecting

the "Disposable & Patient Gowns" guideline would be presented with items that fit that guideline

and not see items fitting the "Tubing and Masks" guideline.

It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify *DeBusk* with *MSEC* since the combination would enhance the users information

regarding an apparel item so that a more informed decision can be made regarding its purchase

and improve searchability as a user would not be bombarded with results of products that they are not looking for.

30.   **As to claim 17,** see the discussion of claim 16, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products for purchase (*MSEC* pages 2 and 3).

31.   **As to claim 18,** see the discussion of claim 16, additionally, *MSEC* discloses the method further comprising selecting one of the apparel products to obtain information on the selected apparel product (*MSEC* pages 2 and 3).

32.   **Claims 21-24, 33-34, and 39-40** are rejected under 35 U.S.C. 103(a) as being

unpatentable over *DeBusk* in view of U.S. Patent No. 6,272,472 to *Danneels et al.*

33.   **As to claim 21,** *DeBusk* discloses a data processing system comprising:

program code stored wherein executing the program code includes determining surgical

procedures that are associated with a type of apparel entered by a user (*DeBusk* Figure 7 wherein

procedure codes 20.79 and 40.40 are associated with TracePack 90-0083 also wherein drapes

and dressings are apparel and may be included in a TracePack see Figures 2 and 3);

accepting one of the surgical procedures as selected by the user (*DeBusk* column 23 lines

13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the

scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual

supply item listed in the bill of materials for the selected procedure."); and

determining apparel products of the type of apparel that are associated with the selected

surgical procedure (*DeBusk* column 23 lines 13-67 and column 24 lines 24-37 "This screen 226

shows the part no. 228, a description 230, the scheduled amount 232, the issued amount 238 and

the returned amount 240 for each individual supply item listed in the bill of materials for the

selected procedure" and wherein drapes and dressings are apparel and may be included in a

TracePack see Figures 2 and 3).

However, *DeBusk* does not disclose a computer readable storage medium containing

code. *Danneels* teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels)*. In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *DeBusk*. One of ordinary skill in the

art would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

34.   **As to claim 22,** see the discussion of claim 21, additionally, *DeBusk* discloses the data

processing system wherein the program code includes an apparel database containing data on

apparel and a surgical procedures database containing data on surgical procedures (*DeBusk*

Figures 2, 3, and 7).

35.   **As to claim 23, ,** see the discussion of claim 21, additionally, *DeBusk* discloses the data

processing system wherein executing the program code includes determining guidelines that are

associated with the apparel products, accepting a guideline as selected by the user (*DeBusk*

column 14 lines 1-12 wherein a care event is a guideline); and

determining which of the apparel products are associated with the selected guideline

(DeBusk column 14 lines 20-41).

36.   **As to claim 24, ,** see the discussion of claim 21, additionally, *DeBusk* discloses the data

processing system wherein

executing the program code includes determining customized items that are associated

with the apparel products (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34 wherein a

customized item is a product that may be added to a pack for a procedure, thus the materials for

the same procedure for different surgeons may be customized to the physicians preference see

column 6 lines 6-65);

accepting a customized item as selected by the user items (*DeBusk* column 24 lines 65-67

and column 25 lines 1-34); and

determining which of the apparel products are associated with the selected customized

item (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34).

37.   **As to claim 33,** *DeBusk* discloses a data processing system comprising:

program code; wherein executing the program code includes accepting a surgical

procedure entered by a user (*DeBusk* Figure 7 wherein procedure codes 20.79 and 40.40 are

associated with TracePack 90-0083 also wherein drapes and dressings are apparel and may be

included in a TracePack see Figures 2 and 3);

determining types of apparel that are associated with the surgical procedure entered by

the user, accepting one type of apparel as selected by the user (*DeBusk* column 23 lines 13-67

and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the

scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual

supply item listed in the bill of materials for the selected procedure.");

determining apparel products that are associated with the selected type of apparel,

accepting at least one of a guideline associated with the apparel products, and determining at

least one of the apparel products that is associated with the at least one of a guideline (*DeBusk*

column 14 lines 1-41 wherein a care event is a guideline);

Additionally, *DeBusk* does not explicitly teach a computer readable storage medium

containing code. *Danneels,* teaches a computer-implemented method realized as one or more

programs on a computer (see column 2, lines 40-46 *of Danneels).* In addition, *Danneels* teaches

that the programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the system of *DeBusk.* One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels* et al.).

38.   **As to claim 34,** see the discussion of claim 33, additionally, *DeBusk* discloses the data processing system wherein the program code includes an apparel database containing data on apparel and a surgical procedures database containing data on surgical procedures (*DeBusk* Figures 2, 3, and 7).

39.   **As to claim 39,** *DeBusk* discloses a method of selecting apparel products for surgical procedures, the method comprising:

executing program code in a data processing system in order to determine types of surgical procedures, guidelines and customized items that are associated with a type of apparel l (*DeBusk* Figure 7 wherein procedure codes 20.79 and 40.40 are associated with TracePack 90-0083 also wherein drapes and dressings are apparel and may be included in a TracePack see Figures 2 and 3);

selecting a surgical procedure (*DeBusk* column 23 lines 13-67 and column 24 lines 24-37 "This screen 226 shows the part no. 228, a description 230, the scheduled amount 232, the issued amount 238 and the returned amount 240 for each individual supply item listed in the bill of materials for the selected procedure.");

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the selected surgical procedure, guideline

or customized item (*DeBusk* column 23 lines 13-67 and column 24 lines 24-37 "This screen 226

shows the part no. 228, a description 230, the scheduled amount 232, the issued amount 238 and

the returned amount 240 for each individual supply item listed in the bill of materials for the

selected procedure" and wherein drapes and dressings are apparel and may be included in a

TracePack see Figures 2 and 3).

selecting a guideline that was not previously selected (*DeBusk* column 14 lines 1-12

wherein a care event is a guideline);

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the guideline (*DeBusk* column 14 lines 1-

12 wherein a care event is a guideline);

selecting a customized item (*DeBusk* column 24 lines 65-67 and column 25 lines 1-34

wherein a customized item is a product that may be added to a pack for a procedure, thus the

materials for the same procedure for different surgeons may be customized to the physicians

preference see column 6 lines 6-65); and

executing program code in the data processing system in order to determine apparel

products of the type of apparel that are associated with the customized item (*DeBusk* column 24

lines 65-67 and column 25 lines 1-34).

However, *DeBusk* does not disclose a computer readable storage medium containing

code. *Danneels,* teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels)*. In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see column 2, lines 46-49 of *Danneels*).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature into the method of *DeBusk*. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of distribution and installation and execution of the software on another computer (see column 7, lines 46-49 of *Danneels* et al.).

40.   **As to claim 40,** see the discussion of claim 39, additionally, *DeBusk* discloses the data processing system wherein the program code includes an apparel database containing data on apparel and a surgical procedures database containing data on surgical procedures, a guidelines database containing data on guidelines, and a personal database containing data on customized items (*DeBusk* Figures 2, 3, and 7).

41.   **Claims 25-26, 28-30, and 32** are rejected under 35 U.S.C. 103(a) as being unpatentable

over *MSEC* in view of *Danneels*.

42.   **As to claim 25,** *MSEC* discloses a data processing system comprising:

program code, wherein executing the program code includes determining guidelines that

are associated with a type of apparel entered by a user, accepting one of the guidelines as

selected by the user (*MSEC* page 1 wherein "Disposable and Patient Gowns" is a guideline); and

determining apparel products that are associated with the selected guideline (*MSEC* page

3).

However, *MSEC* does not disclose a computer readable storage medium containing code.

Danneels, teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels)*. In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels)*.

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *MSEC*. One of ordinary skill in the art

would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

43.   **As to claim 26,** see the discussion of claim 25, additionally, *MSEC* discloses the data

processing system wherein the program code includes an apparel database containing data on

apparel and a guidelines database containing data on guidelines (*MSEC* pages 1-3).

44.   **As to claim 28,** see the discussion of claim 25, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes

determining customized items that are associated with the apparel products (*MSEC* pages

1-3);

accepting a customized item as selected by the user (*MSEC* page 3); and

determining which of the apparel products are associated with the selected customized

item (*MSEC* page 2).

45.   **As to claim 29,** *MSEC* discloses a data processing system comprising:

program code, wherein executing the program code includes determining customized

items that are associated with a type of apparel entered by a user (*MSEC* pages 1-3);

accepting one of the customized items as selected by the user (*MSEC* page 3); and

determining apparel products that are associated with the selected customized item

(*MSEC* page 2).

However, *MSEC* does not disclose a computer readable storage medium containing code.

Danneels, teaches a computer-implemented method realized as one or more programs on a

computer (see column 2, lines 40-46 *of Danneels).* In addition, *Danneels* teaches that the

programs are storable on a computer-readable medium such as a floppy disk or a CD-ROM (see

column 2, lines 46-49 of *Danneels).*

It would have been prima facie obvious to one of ordinary skill in the art at the time of

the invention to incorporate this feature into the method of *MSEC.* One of ordinary skill in the art

would have been motivated to incorporate this feature for the purpose of distribution and

installation and execution of the software on another computer (see column 7, lines 46-49 of

Danneels et al.).

46.   **As to claim 30,** see the discussion of claim 29, additionally, *MSEC* teaches the data

processing system wherein the program code includes an apparel database containing data on

apparel and a personal database containing data on customized items (*MSEC* pages 1-3 wherein

customized data is a choice of sizes and colors).

47.   **As to claim 32,** see the discussion of claim 29, additionally, *MSEC* discloses the data

processing system wherein executing the program code includes determining guidelines that are

associated with the apparel products, accepting a guideline as selected by the user, and

determining which of the apparel products are associated with the selected guideline (*MSEC*

pages 1-3).

48.   **Claims 27 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over

DeBusk in view of *Danneels* in further view of *MSEC.*

49.   **As to claim 27,** *MSEC* and *Danneels* disclose the system substantially as claimed in

claim 25 above; however, the references do not explicitly teach associating an apparel product

with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the

program code includes

    determining surgical procedures that are associated with the apparel products, accepting a

surgical procedure as selected by the user (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67;

column 4 lines 45-65); and

    determining which of the apparel products are associated with the selected surgical

procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

    It would have been obvious to one of ordinary skill in the art at the time of the invention

to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to

surgical procedures of *DeBusk* since the combination would improve the user's knowledge about

the particular product so that a more informed decision regarding purchase can be made.

50.   **As to claim 31,** *MSEC* and *Danneels* disclose the system substantially as claimed in

claim 29 above; however, the references do not explicitly teach associating an apparel product

with a surgical procedure. *DeBusk* discloses the data processing system wherein executing the

program code includes determining surgical procedures that are associated with the apparel

products, accepting a surgical procedure as selected by the user(*DeBusk* figures 2, 3, and 5 and

column 2 lines 62-67; column 4 lines 45-65); and

determining which of the apparel products are associated with the selected surgical procedure (*DeBusk* figures 2, 3, and 5 and column 2 lines 62-67; column 4 lines 45-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of *MSEC* and *Danneels* with the information about apparel in relation to surgical procedures of *DeBusk* since the combination would improve the user's knowledge about the particular product so that a more informed decision regarding purchase can be made.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliza Squires whose telephone number is (571)270-7052. The examiner can normally be reached on Monday through Friday 8 am - 4 pm Eastern Standard Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Gilligan can be reached on 571-272-6770. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. S./
Examiner, Art Unit 3626
10/27/2009

/C. Luke Gilligan/
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